IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 22604 of 2007(N)

PETITIONERS:
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1. TONY M.MATHEW,
MANGUTHEL HOUSE, KEEZHUR AMSOM, PAYYANCHERY DESOM,
IRITTY P.O., KANNUR.

2. BIJI JOSEPH, W/O. TOMY M.MATHEW,
MANGUTHEL HOUSE, KEEZHUR AMSOM, PAYYANCHERY DESOM,
IRITTY P.O., KANNUR.

3. MARY JAMES, W/O. JAMES,
KOLLARATH HOUSE, MANANTHANA AMSOM, MURUNGODI DESOM
MELA P.O., KANNUR DISTRICT.

4. ALEXANDER JAMES, S/O. JAMES,
KOLLARATH HOUSE, MANANTHANA AMSOM, MURUNGODI DESOM
MELA P.O., KANNUR DISTRICT.

5. MINI SEBASTIAN, W/O. SEBASTIAN THOMAS,
PORIYATH HOUSE,KEZHUR AMSOM, POYYAMCHERY DESOM,
IRITTY P.O., KANNUR. (PTNRS.1 TO 5 REP. BY THEIR
POWER OF ATTORNEY HOLDER, C.J.JOY, S/O. JOSEPH,
CHEERANKUZHI HOUSE, DHANUGALA VILLA,CHANUGALA P.O.
GONIGOPAL SOUTH, COORG DISTRICT,KARNATAKA STATE).

BY ADV. SRI.M.C.JOHN

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY SECRETARY, F & WLD, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE CUSTODIAN & CONSERVATOR OF FORESTS,
EASTERN CIRCLE, PALAKKAD.

3. THE DIVISIONAL FOREST OFFICER,
NORTH WAYANAD DIVISION, MANANTHAVADY,
WAYANAD DISTRICT.

BY SPL.GOVT.PLEADER (FOREST) SRI.RANJITH THAMPAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 22604 OF 2007 - N

Dated this the 24th day of July, 2007

J U D G M E N T

The petitioners challenge Ext.P7 Notification issued by the Conservator of Forests and Custodian of Vested Forests, Eastern Circle, Palakkad under the Kerala Private Forest (Vesting and Assignment) Act, 1971. The petitioners are challenging the same on the ground that the same has not been preceded by a proper survey as required under the Act. The contention is that although in Ext.P4 judgment of the Division Bench of this Court, there was a direction to survey the Brahmagiri (A) Estate and Brahmagiri (B) Estate, there is no survey as contemplated under the Act. The petitioners therefore submit that Ext.P7 Notification is unsustainable in view of want of proper survey. The question as to whether a proper survey has been conducted or not itself is a question of fact which I cannot adjudicate in proceedings under Article 226 of the Constitution of India. It is open to the petitioners to file an Original Application before the Forest

Tribunal and contest the matter by adducing evidence. Therefore, without prejudice to the right of the petitioners to file an Original Application before the Forest Tribunal, against Ext.P7, this writ petition is dismissed. However, in order to enable the petitioners to approach the Tribunal and obtain interim orders, I direct that status quo order passed by this Court in Ext.P6 shall continue for a period of three more weeks.

sd/-
S. SIRI JAGAN,
Judge

Mbs/

-True Copy-

P.A.to Judge.

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007